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EXAMINER

SKHOUN, HICHAM

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHIRAG K. BARHATE, BHOOSHAN P. KELKAR,
and MAHESH S. PARADKAR

Appeal 2017-001252
Application 13/873,736
Technology Center 2100

Before ALLEN R. MACDONALD, IRVIN E. BRANCH, and
MICHAEL M. BARRY, *Administrative Patent Judges*.

BRANCH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision finally rejecting claims 10–24. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

CLAIMED SUBJECT MATTER¹

The claims are directed to “human resource analytics.” Spec. ¶ 1

Claim 10, reproduced below, is illustrative of the claimed subject matter:

10. A computer program product residing on a computer readable storage medium having a plurality of instructions stored thereon, which, when executed by a processor, cause the processor to perform operations comprising:

on determination of an entity replacement request for an entity to be replaced;

identifying an optimized entity as a replacement entity based on a predefined set of metadata, wherein the metadata comprises a profile associated with the entity to be replaced, wherein the profile of the entity to be replaced is further based on a graph associated with the entity to be replaced;

providing the optimized entity as the replacement entity.

REFERENCES AND REJECTIONS²

Claims 10–13, 15–20, and 22–24 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over the combination of Duchon (US 2011/0040764 A1, published Feb. 17, 2011) and Moore (US 2013/0275320 A1, published Oct. 17, 2013). Final Act. 8–13.

¹ Should further prosecution of the presently-pending claims ensue, the Examiner might consider whether the claims recite patentable-ineligible subject matter. *See* 35 U.S.C. § 101; *Alice Corp. v. CLS Bank Int’l*, 134 S. Ct. 2347 (2014).

² We do not reach the merits of the provisional, nonstatutory double patenting rejection of claims 10–24 over claims 1–9 and 24 of copending Application No. 13/454,271 (Final Act. 2–7) because, no claims having been allowed in the cited application, the rejection remains provisional.

Claims 14 and 21 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over the combination of Duchon, Moore, and Grieve (US 8,595,167 B1, issued Nov. 26, 2013). Final Act. 13–14.

RELATED APPEALS

We are informed that the instant appeal is related to a pending appeal in Application No. 13/454,271. App. Br. 1.

OPINION

Claims 10–13, 15–20, and 22–24

Appellants argue error in the Examiner’s rejection of claim 10 over the combination of Duchon and Moore. App. Br. 8–11; Reply Br. 2–3.

We are unpersuaded of error because Appellants’ arguments fail to address what the combined teachings of the references would have taught or suggested to one of ordinary skill in the art. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

Specifically, Appellants argue Moore’s “social graph” is associated with a replacement entity and not an entity to be replaced as recited in claim 10. App. Br. 8–11; Reply Br. 2–3. This line of argument is unpersuasive because the Examiner cited Duchon for a profile of an entity to be replaced (Final Act. 9 (citing Duchon ¶ 45)) and cited Moore for a profile including a graph (*id.* 9–10 (citing Moore ¶ 45)). Appellants’ arguments do not persuasively rebut the Examiner’s reasoning as follows:

It would have been obvious to a person of ordinary skill in the art the time the invention was made to incorporate the concept of the profile of the entity is further based on a graph associated with the entity to be replaced suggested in Moore’s

system into Duchon's and by incorporating Moore into Duchon because both system are relate[d] to identifying prospective employee candidates via employee connections would limit the cost, time and resources to find and interact with the potential candidates (**Moore, [0002]**).

Id.

We, therefore, sustain the Examiner's decision rejecting claim 10 over the combination of Duchon and Moore, adopting the Examiner's findings and conclusion that claim 10 is obvious. Final Act. 8–10. Claims 11–13, 15–20, and 22–24 fall therewith. App. Br. 8.

Claims 14 and 21

We also sustain the Examiner's decision rejecting claim 14 as unpatentable over the combination of Duchon, Moore, and Grieve, adopting the Examiner's findings and conclusion. Final Act. 13–14. Claim 21 falls therewith. App. Br. 11.

In particular, Appellants argue Grieve is nonanalogous art because Grieve's field of endeavor is not Appellants' field of endeavor. *Id.* 11–14; Reply Br. 3–5. Appellants' arguments are unpersuasive of error because “field of endeavor” is not the sole test for determining whether a reference is analogous art. *See In re Kahn*, 441 F.3d 977, 986–87 (Fed. Cir. 2006) (“The analogous-art test requires that the Board show that a reference is either in the field of the applicant's endeavor *or is reasonably pertinent to the problem with which the inventor was concerned* in order to rely on that reference as a basis for rejection.” (citing *In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992)) (emphasis added)). The Examiner finds Grieve is related to “identifying similar entities” (Ans. 7³), and Appellants have not persuasively

³ We note that, although the Examiner states Grieve is in a field of endeavor common to Duchon and Moore (“determine Potential candidate entity to

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established that “identifying similar entities” is not reasonably pertinent to the claimed subject matter.

DECISION

The Examiner’s decision rejecting claims 10–24 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

fulfill the entity to be replaced”), the Examiner also separately, specifically finds they address the problem of “identifying similar entities.”